IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1726 OF 2006

Antim Bhagwandas Totla ..Petitioner

Vs.

Rashmi P.Karandikar & Ors. ..Respondents

WITH

CRIMINAL WRIT PETITION NO.1601 OF 2006

Rajesh Pranlal Gatalia ..Petitioner

Vs.

Rashmi P.Karandikar & Ors. ..Respondents

Mr.Shirish Gupte with Ms.Ruchita Dhruv with Mr.M.P.Tekavade and Mrs.S.M.Kekavade for the petitioner

Mr.S.R.Borulkar, P.P. for the state

CORAM : J.N.PATEL &
SMT.ROSHAN S.DALVI, JJ.

DATED : 20TH OCTOBER, 2006

P.C.:
1. Heard.

2. The petitioner has approached this court

seeking quashing and setting aside the approval granted by the respondent no.3 on 13.7.06 and the F.I.R. No.II-13 of 2006 for having committed offences under section 3(1)(ii), 3(2), 3(4) of MCOC Act, 1999 registered by Wada Police Station, Thane and that the petitioner be set at liberty. By way of interim orders, it is sought that further proceedings in the matter be stayed and refrain the respondents from initiating any coercive action against the petitioner in the said F.I.R.

3. The case came to be registered against the petitioner on the basis of a report lodged by Subhash Mahadeo Surve, Police Inspector who was at the relevant time posted at E.O.W. of Crime Branch, Mumbai when during the course of investigation, the Complainant found that unlawful activities were being carried out by the accused persons by adopting illegal means and they are benefited due to this illegal activities by importing solvent known as Naptha and using it alongwith Kerosene and other petroleum products and thereby have profited. The enquiry further reveals that the main conspirators in the case are the

petitioner, Antim Totla, one Prakash Jhakete and Girish Ved and that they are the directors of Progressive Petroleum Company Ltd. situated at Lay Orchids, 6th Floor, Khar (W), Mumbai 400 054 and also Paradise Petrochem Pvt.Ltd and Jalgaon and that they hatched a conspiracy with Girish Ved who was the lead player in luring slum dwellers and other gullible poor persons into lending their names and parting with their documents like photocopies of Ration Cards, Electricity Bills and documents relating to residence on the basis of which petitioner and his associates have obtained Pan Cards from I.T.Authorities and other documents and the whole operation is done in a meticulous manner which is a organised crime. In the F.I.R. itself names of the various proprietary concerns which were found to be operated for the benefit of members of this organised crime syndicate has been mentioned and it is mentioned that they have contravened the Essential Commodities Act and violated Sales Tax Laws and thereby committed offences under the Indian Penal Code pursuant to conspiracy i.e. sections 465, 467, 468,420, 474 r/w 120-B of the Indian Penal Code and also section

3 r/w 7 of the Essential Commodities Act, 1955.

4. On such a complaint being lodged, the petitioner moved this court and on 11.8.06 this court by interim order directed that no coercive action should be taken against the petitioner. On the next date, i.e. 4.9.06 an adjournment was sought. On 12.9.06 when the matter was again taken up for hearing, the learned counsel for the petitioner submitted that the petitioner is willing to cooperate in the investigation of the case and shall attend Wada Police Station as and when directed by this court. In order to give fair opportunity to the petitioner, this court protected him on the condition that he should cooperate with the investigating agency.

5. The learned P.P. placed before us a communication dt.9.10.06 received from the Investigating Officer in which particulars of the offences against the members of the organised crime syndicate are spelt out and the modus operandi of the organised crime is stated. The complicity of the petitioner is also spelt out in detail.

6. Mr.Borulkar, the learned P.P. submitted that though the petitioner has attended the office of the investigating officer and placed before it certain documents, he has not extended any cooperation in the investigation of the case and according to the learned P.P. unless the petitioner is taken in custody, it will not be possible to collect the material evidence about the case considering the magnitude of the case in which organised crime syndicate is involved and therefore, this court should give a free hand to the investigating agency in carrying out investigation otherwise it will not be possible for them to conduct fair investigation in the matter.

7. Mr.Shirish Gupte, the learned counsel for the petitioner submitted the compilation of details and documents in respect of the investigation carried out at the time the petitioner attended the office of S.D.O.P. Vasai, Thane and submitted that the petitioner fails to understand as to what investigation the police wants to carry out as he has made available all the documents required by

them and has extended cooperation as required and therefore, his liberty should be protected.

8. After considering the rival contentions and on going through the report submitted by the I.O. we find that prima facie complicity of the petitioner is made out and therefore, we are of the view that it will not be just and proper that this court should interfere with the investigation of the case. It is not that the F.I.R. registered against the petitioner for having committed offences under the MCOC Act is without any basis. One of the co-accused is already in custody of the police and therefore, the petition is dismissed.

(SHRI J.N. PATEL, J)

(SMT.ROSHAN DALVI, J)